

REMARKS

Claims 1-10, 12-17 and 28-36 are pending in this application.

Claims 1-10, 12-17 and 28-36 are rejected

The office action dated Oct. 18, 2007 is made final. The final office action indicates that the claims remain rejected under 35 USC §102(e) as being anticipated by Hersch et al. Patent Application Publication 2005/0083540. The final office action indicates that the Rule 131 declaration by inventors, filed 30 July 2007, is insufficient to overcome Hersch et al. However, the final office action does not explain why the Inventors' Rule 131 declaration is insufficient.

On Dec. 18, 2007, applicants' attorney Hugh Gortler spoke with Examiner Thinh Nguyen to discuss the Rule 131 declaration. Examiner Nguyen stated that the Rule 131 declaration did not indicate a date of conception.

Surprised by that statement, applicants' attorney inquired about an invention record that was part of the declaration. The invention record was submitted to establish a date of conception. The examiner stated that an invention record was not made of record. The undersigned checked PAIRS, which confirmed the examiner's statement.

Thus, the Inventors' Rule 131 declaration filed 30 July 2007 is incomplete. The portion that was filed clearly states "A copy of the Invention Disclosure is attached." However, due to a clerical error, it wasn't attached. Therefore, the response filed on 30 July 2007 was incomplete.

A complete Rule 131 declaration by inventors is submitted herewith. The complete Rule 131 declaration includes an invention disclosure entitled "A method for predicting developer voltage in an HP Indigo press."

MPEP 714.03 states that the applicants should have been given time to complete the response filed 30 July 2007, since that response was a bona fide reply to the office action dated April 13, 2007. Therefore, the final rejection is premature. The examiner is respectfully requested to withdraw the finality of the office action per MPEP 706.07(d), and enter the complete Rule 131 declaration by inventors.

MPEP 706.07(e) states "The examiner may withdraw the rejection of finally rejected claims. If new facts or reasons are presented such as to convince the examiner that the previously rejected claims are in fact allowable ... then the final rejection should be withdrawn." For this additional reason, the examiner is respectfully requested to withdraw the finality of the office action and enter the complete Rule 131 declaration by inventors.

If the examiner does not withdraw the finality of the office action, he is respectfully requested to enter the complete Rule 131 declaration pursuant to CFR 1.116 (e), which states "an affidavit or other evidence submitted after a final rejection ... may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented." The complete Rule 131 Declaration was not submitted due to a clerical error. Entry is respectfully requested.

Respectfully submitted,
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